

400 KAR 2:080. Dedication of nature preserves and registration of natural areas.

RELATES TO: KRS 146.410, 146.420, 146.440, 146.470, 146.490, 146.505

STATUTORY AUTHORITY: KRS 146.460, 146.465, 146.475, 146.485, 146.495

NECESSITY, FUNCTION, AND CONFORMITY: KRS 146.485 requires the commission to establish rules for the selection, acquisition, management, protection, and use of natural areas and nature preserves, and to maintain a state registry of natural areas, an inventory of natural types, flora and fauna, and other records of natural areas and nature preserves. This administrative regulation sets forth procedures for the dedication and maintenance of nature preserves, and the registration and maintenance of inventories relating to natural areas and nature preserves.

Section 1. Dedication of Nature Preserves. (1) Upon the determination by the director of the commission that an area constitutes a natural area worthy of protection through dedication as a nature preserve, and that the owner is willing to have his land or a portion thereof dedicated as a nature preserve, the director may recommend to the commission that the area be dedicated as a nature preserve.

(2)(a) A natural area shall become a nature preserve upon acceptance of articles of dedication by the commission.

(b) Articles of dedication shall be recorded in the county in which the natural area is located, the office of the secretary of state, and the office of the commission.

Section 2. Articles of Dedication. (1) The articles of dedication shall be used as the guidelines for the management of each nature preserve. Management, use, development and public access of each nature preserve shall be in accordance with the provisions set forth in the articles of dedication.

(2) The articles of dedication may contain restrictions relating to management, use, development, transfer, and public access, as well as such other provisions as may be necessary to further the purposes of the Act.

(3) Articles of dedication may vary in provisions from one (1) nature preserve to another in accordance with differences in the characteristics and conditions of the area involved, or for other reasons found necessary by the commission and the landowner, grantor, deviser, or donor.

(4) Before the Commonwealth of Kentucky, through the commission, acquires a nature preserve, it shall be the responsibility of the director to propose to the commission provisions for incorporation into the articles of dedication.

Section 3. Amendment of Articles of Dedication. (1) Articles of dedication may be amended by the commission upon a finding by the commission that such amendment will not permit an impairment, disturbance, use or development of the nature preserve inconsistent with the purposes for which the area was dedicated or inconsistent with the Act.

(2) If fee simple ownership is not held by the Commonwealth of Kentucky, no amendment to the articles of dedication shall be made without the written consent of the owner of other interests therein.

(3) Findings and determinations of the commission to amend articles of dedication may be set forth in the minutes of the commission.

Section 4. Buffer Areas. (1) For the purpose of protecting a nature preserve, adjoining land that is not otherwise suitable for dedication as part of the nature preserve may be dedicated as a buffer area in the same manner as a nature preserve.

(2) The articles of dedication may contain provisions for the management, use, development, and public access of the buffer area that differ from those for the adjacent nature preserve.

Section 5. Registration of Natural Areas. (1) Upon the determination by the director of the commission that an area constitutes a natural area worthy of preservation, which is not otherwise available for dedication, the director may recommend to the commission that the area be entered into the register of natural areas.

(2) No area shall be registered without the consent of the landowner or managing public agency.

(a) Such consent may include an agreement by the landowner to give notice to the commission of any change in ownership, allow limited public access, or include voluntary management agreements designed to protect the natural features of the area.

(b) Upon request of the landowner or managing public agency the location of registered areas shall be kept confidential and not released as a public record of the commission. Specific information as to the location of the registered natural area also may, upon determination by the commission, be restricted so as to assure protection of the natural features and limit uncontrolled visitation.

(3) Registration by the commission of certain natural areas, where no landowner or managing public agency can give consent, involving stream segments deemed waters of the Commonwealth, shall be by determination of the commission.

Section 6. Identification of Natural Areas. (1) For the purposes of identifying natural areas for potential protection as nature preserves areas, the commission may develop, maintain, and periodically update an inventory of natural types, flora and fauna. The commission shall use the inventory, and the best available scientific information, to identify species of animals and plants to be monitored by the commission.

(2) The commission may develop, maintain, and update a list of natural areas which warrant protection through dedication as a nature preserve or registration as a natural area.

Section 7. Selection of Custodian. (1) When the commission has acquired an interest less than fee simple in a nature preserve, the selection of a custodian may be made by the owner of the other interest therein subject to the rules and administrative regulations of the commission and the articles of dedication for the nature preserve. Otherwise the commission shall determine the custodian, if any.

(a) The custodian shall demonstrate to the commission the ability to administer the nature preserve in accordance with the articles of dedication and these administrative regulations.

(b) The commission shall act as custodian of a nature preserve until such time as a custodian is approved, or if the custodian fails to administer a nature preserve in accordance with the articles of dedication and these administrative regulations.

(2) When the commission has acquired a fee simple interest in a nature preserve, the commission may select a custodian.

(a) The commission shall publish notice of its intent to select a custodian in the county, or counties, in which the preserve is located, and for the state at large.

(b) The notice shall state:

1. The location of the nature preserve.
2. Where the articles of dedication are recorded.
3. That a written proposal is to be submitted to the commission.
4. The date by which the proposal shall be submitted.
5. The address to which the proposal shall be submitted.

(c) The date by which the written proposal is to be submitted to the commission shall be not less than sixty (60) days after the date of publication of the notice.

(d) A hearing shall be conducted for the purpose of selecting a custodian pursuant to the provi-

sions of 400 KAR 2:100. (13 Ky.R. 1321; eff. 2-10-87.)